

**Assembly Bill No. 993**

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Passed the Assembly September 5, 2007

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*Chief Clerk of the Assembly*

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Passed the Senate September 5, 2007

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2007, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 1729, 1730, and 1736.1 of, and to add Section 1728.8 to, the Health and Safety Code, relating to home health agencies.

## LEGISLATIVE COUNSEL'S DIGEST

AB 993, Aghazarian. State Department of Public Health: licensure: home health agencies.

Existing law requires private or public organizations, including, but not limited to, any partnership, corporation, political subdivision of the state, or other governmental agency within the state, to obtain a home health agency license before providing or arranging for the provision of skilled nursing services in the home. Existing law provides for licensing of home health agencies by the State Department of Public Health. Existing law gives the department full range of authority over accredited home health agencies to ensure that the licensure and accreditation requirements are met, including the entire scope of enforcement sanctions and options available for unaccredited home health agencies.

This bill would, commencing July 1, 2008, require the department to make every effort, no later than 90 days after the department receives an initial and complete parent, branch, or change of ownership home health agency application to complete the application paperwork, to conduct a licensure survey, if necessary, and in certain circumstances, to conduct an unannounced certification survey in accordance with a specified timeline, as provided. The bill would require the department to forward the results of the certification surveys to the federal Centers for Medicare and Medicaid Services, as specified.

The bill would require the department, if the department is unable to meet the 90-day timelines for licensing or certification required pursuant to this bill, to notify the applicant in writing of the delay and the anticipated date of the survey.

The bill would require the department to work with the home health industry association and providers to restructure home health agency licensing and certification program fees for the 2008–09 fiscal year.

Existing law requires that a home health agency license shall expire 12 months after the date of issuance, and provides for renewal applications to be filed with the department not less than 30 days prior to the expiration date, accompanied by the necessary fees.

This bill would, in addition, require the department to mail a renewal application to all licensees not less than 45 days prior to the expiration date, as specified.

Existing law requires an applicant for certification as a certified home health aide to satisfy certain requirements, including to have successfully completed a training program approved by the department pursuant to applicable state and federal regulations. A violation of these provisions is a misdemeanor.

This bill would require the certified home health aide training program to have a minimum of 75 hours or a competency evaluation program equivalent. By changing the definition of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1728.8 is added to the Health and Safety Code, to read:

1728.8. (a) It is the intent of the Legislature to ensure that the department licenses and certifies home health agencies in a reasonable and timely manner to ensure Californians have access to critical home- and community-based services. Home health agencies have significant startup costs and regulatory requirements, which make home health agencies vulnerable to delays in licensing and certification surveys. Home health agencies help the state protect against the unnecessary institutionalization of individuals and are integral in ensuring the state's compliance with the United States Supreme Court decision in *Olmstead v. L.C.* (527 U.S. 581 (1999)), which requires public agencies to provide services in the

most integrated setting appropriate to the needs of qualified individuals with disabilities.

(b) No later than 90 calendar days after the department receives an initial and complete parent, branch, or change of ownership home health agency application, the department shall make every effort to complete the application paperwork and conduct a licensure survey, if necessary, to inspect the agency and evaluate the agency's compliance with state requirements. The department shall forward its recommendation, if necessary, and all other information, to the federal Centers for Medicare and Medicaid Services within the same 90 calendar days.

(c) (1) For those applicants seeking to receive reimbursement under the Medicare or Medi-Cal programs, the department shall make every effort to complete the initial application paperwork and conduct an unannounced certification survey, if necessary, no later than 90 calendar days after the department conducts the licensure survey required by subdivision (a), or no later than 90 days after the department's receipt of a letter from the home health agency notifying the department of its readiness for the certification survey from a parent or branch agency.

(2) No later than 30 calendar days after the certification survey, the department shall forward the results of its licensure and certification surveys and all other information necessary for certification to the federal Centers for Medicare and Medicaid Services.

(d) This section shall apply to all licensing and certification entities, including any county that contracts with the state to provide licensing and certification services on behalf of the state.

(e) If the department is unable to meet the 90-day timelines for licensing or certification required pursuant to this section, the department shall notify the applicant in writing of the delay and the anticipated date of the survey.

(f) This section shall become operative on July 1, 2008.

SEC. 2. Section 1729 of the Health and Safety Code is amended to read:

1729. Each application for a license under this chapter, except applications by the State of California or any state department, authority, bureau, commission, or officer, shall be accompanied by a Licensing and Certification Program fee for the headquarters or main office of the agency and for each additional branch office

maintained and operated by the agency in the amount set in accordance with Section 1266. The department shall work with the home health agency industry association and providers to restructure home health agency licensing and certification program fees in a budget neutral capacity for the 2008–09 fiscal year.

SEC. 3. Section 1730 of the Health and Safety Code is amended to read:

1730. (a) Each license issued under this chapter shall expire 12 months from the date of its issuance. Application for renewal of license accompanied by the necessary fee shall be filed with the state department annually, not less than 30 days prior to expiration date. Failure to make a timely renewal shall result in expiration of the license.

(b) (1) At least 45 days prior to the expiration of a license issued pursuant to this chapter, the department shall mail an application for renewal to the licensee.

(2) Any application for a license renewal shall be submitted with the necessary fee in accordance with subdivision (a). A license shall be deemed renewed upon payment of the necessary fee, commencing from the license's expiration date. If the requirements of this section are met, the department shall issue a license to the agency and its branches by the expiration date of the license to ensure the provider remains in good standing. The agency's license shall be mailed within 30 calendar days after the date the department receives the renewal fee.

SEC. 4. Section 1736.1 of the Health and Safety Code is amended to read:

1736.1. (a) An applicant for certification as a certified home health aide shall comply with each of the following requirements:

(1) Have successfully completed a training program with a minimum of 75 hours or an equivalent competency evaluation program approved by the department pursuant to applicable federal and state regulations.

(2) Obtain a criminal record clearance pursuant to Section 1736.6.

(b) Any person who violates this article is guilty of a misdemeanor and, upon a conviction thereof, shall be punished by imprisonment in the county jail for not more than 180 days, or by a fine of not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



Approved \_\_\_\_\_, 2007

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*Governor*